

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

10 J. ROBERT KILLIAN, ) Case No.: C 12-5418 PSG  
11 Plaintiff, )  
12 v. ) **ORDER GRANTING DEFENDANTS'**  
13 CITY OF MONTEREY, et al, ) **MOTION TO DISMISS**  
14 Defendants. )  
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16 On November 28, 2012, Defendants City of Monterey, et al ("Defendants") moved to  
17 dismiss one claim and one prayer for damages from the complaint filed by Plaintiff J. Robert  
18 Killian ("Killian").<sup>1</sup> Defendants sought dismissal of a claim brought pursuant to 42 U.S. C. §  
19 12132 against the individually named defendants on the grounds that § 12132 permits causes of  
20 action only against municipalities. Defendants also sought dismissal of Killian's pursuit of  
21 punitive damages from the City of Monterey pursuant to 42 U.S.C. § 1983 and Section 202 of the  
22 American with Disabilities Act ("ADA") on the grounds that neither § 1983 nor Section 202 of the  
23 ADA permit such a punitive damages request. Killian does not oppose dismissing these limited  
24 claims.<sup>2</sup>

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<sup>1</sup> See Docket No. 7.  
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<sup>2</sup> See Docket No. 9.

1 In light of Killian's non-opposition, the court GRANTS Defendants' request to dismiss the  
2 42 U.S.C. § 12132 claim against the individually-named defendants and the punitive damages  
3 claims pursuant to 42 U.S.C. § 1983 and Section 202 of the ADA against the City of Monterey.

4 **IT IS SO ORDERED.**

5 Dated: December 19, 2012

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7 PAUL S. GREWAL  
8 United States Magistrate Judge